

The Administrative Law Judge awarded claimant medical benefits consisting of those services provided by the Wichita Clinic for treatment of his foot and unauthorized medical expense in the sum of \$500.00. The respondent and insurance carrier requested this review and ask the Appeals Board to review the issue whether claimant sustained

personal injury by accident arising out of and in the course of his employment with respondent. That is the sole issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

Claimant injured his left foot on November 1, 1993 when his foot was partially caught under a load of lumber. On the day of the incident, claimant sought medical treatment for his foot from a Newton physician, Dr. Claassen. Although witnesses standing close to claimant at the time of the incident did not see claimant's foot trapped under the lumber, they did see claimant lying on the ground immediately after a truck had dropped its load of lumber to the ground beside claimant.

The Appeals Board finds claimant did not prove he injured his face or eyes in this accident and should, therefore, be denied benefits for any alleged face or eye injury. For purposes of final award, claimant did not present any medical evidence to support his contention of face or eye injury. Likewise, the claimant failed to present evidence to establish any permanent injury to his foot.

The burden is placed upon the claimant to prove by a preponderance of the credible evidence the various conditions upon which his rights depend. K.S.A. 44-501(a); see *also* Chandler v. Central Oil Corp., 253 Kan. 50, 853 P.2d 649 (1993). The provisions of the Workers Compensation Act shall be applied impartially to both employers and employees. K.S.A. 44-501(g). In determining whether the claimant has satisfied his burden of proof, the trier of facts shall consider the whole record. K.S.A. 44-501(a).

Based upon the above findings, the Appeals Board finds the Award of the Administrative Law Judge should be affirmed in all respects except as to the denial of future medical treatment for the foot which may be requested upon proper application to and approval by the Director.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore dated November 9, 1995, should be, and is hereby, modified. The claimant, Robert M. Gomez, is awarded medical benefits for the expenses he incurred at the Wichita Clinic for treatment of his foot and for unauthorized medical expense up to \$500.00 for treatment of his foot; any future medical care is subject to application and approval by the Director; and the costs of this proceeding are to be paid by the respondent and its insurance carrier as set forth in the Award.

IT IS SO ORDERED.

Dated this ____ day of March 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert M. Gomez, Pro Se
James M. McVay, Great Bend, KS
David H. Farris, Wichita, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director